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TITHES INDEFENSIBLE;

OR,

OBSERVATIONS

ON THE

ORIGIN AND EFFECTS

OF

TITHES,

WITH SOME REMARKS ON

THE TITHE LAWS.

ADDRESSED TO COUNTRY GENTLEMEN,

THE SECOND EDITION, WITH ADDITIONS,

YORK:

PRINTED BY WILSON, SPENCE, AND MAWMAN :

Sold by T. CADELL, C. DILLY, J. JOHNSON, and G. G.
and J. ROBINSON, London ; by WILSON & Co.
W. TESSEYMAN, and J. TODD, York ;
And the Bookfellers in Hull.

Anno 1795.

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P R E F A C E.

THOSE gentlemen who are acquainted with the expence of the culture, and the nature of the produce of their estates, well know, that TITHES in kind are a great deduction from the value of their property, and a constant impediment to the improvement of it.

THE effects of TITHES are at present much more sensibly felt and generally understood than in times past ; but it is possible that, in the following sheets, some facts relative to TITHES, may be stated in a more perspicuous light than that in which the reader has been accustomed to view them. The subject deserves examination, as it is of great national importance ; and, in the midst of a variety of mercantile pursuits, I have endeavoured to investigate it with attention and impartiality.

THOMAS THOMPSON.

HULL, AUGUST 17, 1795.



TITHES INDEFENSIBLE:

OR,

OBSERVATIONS, &c.

THE Author of the following Observations is far from being insensible of the many excellencies of our civil constitution, whilst, at the same time, he can by no means approve of every part of our ecclesiastical polity. The hierarchy unquestionably involves in it various laws which are derogatory of the blessings of a free government; and, in particular, the imposition of *TITHES* for the maintenance of the clergy,—a burthen so reluctantly borne, and so generally complained of,—is clearly inconsistent with the genuine principles of the constitution, and the prosperity of the nation.

FROM the Old Testament, we know that under the Jewish government, *TITHES* were of divine appointment. But it is unneces-

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ary,

fary, in the present day, to attempt to prove, that the *divine right* to TITHES ceased with the theocracy. Indeed the clergy themselves, well knowing how incredulous the laity have been for some time past relative to the divine right of their claim, have ceased to urge it, and now demand TITHES under no other authority than that of the existing laws of their country *.

‘ UNDER the Mosaic dispensation, God
 ‘ himself assigned to the priests and Levites,
 ‘ TITHES and other possessions: and in
 ‘ those possessions they had a *divine right* ;
 ‘ a property quite superior to all human
 ‘ laws, ecclesiastical as well as civil. But
 ‘ every donation to the Christian church,
 ‘ is a human donation, and no more, and
 ‘ therefore cannot give a *divine right*, but
 ‘ such a right only as must be subject, in
 ‘ common with all other property, to the
 ‘ regulation of human laws†.’

IN

* The priest's *divine* right to a tenth part, and the king's divine right to the other nine, went out of fashion together.

Warburton's Alliance.

† Original Letter of Bishop Butler.

IN the New Testament, we find no commandment for the payment of TITHES, nor any prescribed mode of maintenance for the Christian priesthood. Saint Paul gives directions to the Corinthians relative to the manner in which contributions were to be made for the poor * ;—but he gives no particular rules as to the way in which his own wants were to be supplied :—And, in the first and purest ages of Christianity, it is certain, that those who preached the gospel were far less anxious to ascertain the peculiar means of their own support, than to convince the world of the truth and importance of that religion of which they were the ministers. It would, however, be illiberal in the extreme, not to wish the clergy of the present day an honourable competency ; and it is one of the greatest defects of our ecclesiastical establishment, that it starves a great number of useful men of piety and learning, although many of their lazy and useless superiors are permitted to indulge in the luxurious expenditure of thousands.

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THE

* 1 Epist. Cor. chap. xvi.

THE community of goods in the Christian church was of short duration, and partial extent; and, in general, for the first two or three hundred years after Christ, weekly or monthly offerings were made by the Christians, according to their ability, which were disposed of in support of the ministers of the gospel and of the poor. But these were voluntary offerings, and not exacted either by ecclesiastical or civil authority. Every man gave just as much as he thought proper: '*Nam nemo compellitur,*' says Tertullian, '*sed sponte confert. Hæc quasi deposita pietatis sunt* *.' These contributions of the pious constituted a common stock, from which the wants of orphans, widows, aged persons, and other descriptions of poor Christians, were constantly supplied; and the preachers of the gospel received from the same fund, as much as was necessary for their maintenance, but no more †.

IN the beginning of the fourth century, some of the larger societies of Christians
were

* Tertull. Apolog. cap. 39. De Disciplina Christianorum.

† Spelman on Tithes, chap. 6.

were in possession of considerable property of various kinds. Constantine the Great, the first Christian emperor, was very munificent to the church; and, in the year 321, he published an edict, declaring, that his subjects were at full liberty to bequeath as large a proportion of their property to the clergy as they should think proper*.

IN this century, TENTHS were offered in some parts of Italy for sacred uses, and much was said by the clergy to induce the regular payment of them. In several places the clergy received the TENTHS as treasurers for the poor, and promised to distribute them for their relief. Ambrose, the

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bishop

* Gibbon's History of the Decline and Fall of the Roman Empire, vol. 3. p. 291. 8vo edition.

This pious or political liberality of Constantine, was far from being productive of future good to the Christian religion.

Bishop Jewel, the great champion of the Church of England, has thought it worth while to quote from one of the old Catholic Fathers, the following story relative to Constantine's conduct.

'When Constantine endowed the church with lands and possessions, it is said there was a voice of angels heard in the air, saying, *Hodie venenum infunditur in ecclesiam*; 'This day is poison poured into the church.'

bishop of Milan, about this time, insisted much on the payment of TITHES, and threatened that, if the people would not give a tenth, God would take away from them the other nine parts, and reduce them to a tenth. Augustine, the bishop of Hippo, denounced the same punishment on those who would not pay TITHES; and in his sermon DE REDDENDIS DECIMIS (if that sermon be not a monkish forgery) says, '*Hæc est Domini justissima consuetudo, ut si tu illi decimam non dederis tu ad decimam revoceris.*' But Augustine pressed the payment of TITHES, in order that the wants of the poor might be relieved; for, he says, those who will not pay TITHES, will be found guilty, at God's tribunal, of the death of the poor who have perished through want.

FOR some time, several of the clergy were beneficent in proportion to the liberality of their proselytes; and the injudicious conduct of Constantine towards the church, was not immediately universal in its evil effects. But in Britain, even before the arrival of the Saxons, about the middle
of

of the fifth century, great depravity of manners prevailed amongst many of the clergy as well as laity. Gildas, the historian of Britain, who lived about the middle of the sixth century, informs us, that the clergy of Britain were pastors in name only, and not so in reality, as they were on all occasions more desirous to feed themselves than their flock; not called to the ministry, but seizing it as a trade; great promoters of other people's alms, but very sparing of their own; ignorant of the doctrines of the holy scriptures, but artful in worldly things, and guilty of enormous vices. What then, says he, can be expected from such men?

ABOUT the year 597, Austin, a monk of St. Andrew's at Rome, was sent by Pope Gregory the Great into England, to spread the knowledge of Christianity among the Anglo-Saxons, and to introduce a system of church-government among them*. The mission was successful; and in a short time the king of Kent gave Austin † some lands,

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for

* Bede, lib. 1. c. 30.

† Of this Austin an extraordinary fiction was related in later times, in order to enforce the imposition of tithes. In a manuscript

for the maintenance of himself and those ecclesiastics whom he had brought with him. And, as donations of this sort were likely to increase, Austin desired the advice of Pope Gregory with regard to the manner in which he should dispose of the gifts and offerings of Christians. Gregory answered, that it was the custom of the church to divide them into *four* parts; to give one to the bishop, another to the clergy, a third to the poor, and to appropriate a fourth to the repairs of the church*. And nearly in
this

script life of Thomas à Becket, in the public library at Oxford, it is said, that Austin coming to preach at a town in Oxfordshire, the priest of the place complained to him, that notwithstanding his frequent admonitions, the lord of the town would pay him no tithes. Austin reproved the lord for his impiety, who answered, the tenth sheaf belonged to him as well as the other nine, and the priest should have no tithes. Austin immediately excommunicated him; and turning to the altar to say mass, suddenly a man, who had been dead many years, arose out of his grave, and told Austin, that formerly he was *hujus ville patronus*, and never paid tithes; for which crime, he said, he died under excommunication, and was carried to hell. The lord of the place, who was standing by in great fear, being now asked if he would pay tithes, instantly fell down at Austin's feet, weeping and confessing his crime, and immediately became a diligent follower of Austin.

Selden's Hist. of Tithes.

* Bede, lib. 1. c. 27. Gibbon, vol. 3. p. 294. 8vo edition,

this way, undoubtedly, were the revenues of the Christian church disposed of for a considerable time ; and the clergy were in fact only the trustees, into whose hands they were committed for the purpose of being distributed agreeably to the rules of the church. It was not till a much later period that the clergy claimed, as their own property, those effects which were entrusted with them as stewards, and a large proportion of which they were bound to dispose of in support of the poor, and in the maintenance of places of public worship *.

THE

* Gaudentius, a bishop of Auson, in the latter part of the fifth century, was severely reprehended by Simplicius, bishop of Rome, for having taken too large a proportion of the oblations of Christians ; and he was obliged to restore to the church the goods which he had unjustly detained for his own use. Simplicius directed, that this bishop should have a fourth part of the oblations, and no more ; that two parts should be reserved for the poor and the stranger, and for repairing the fabric of the church, to be paid by the priest at the peril of his order ; and the remaining part was to be distributed among the clergy, according to their merits. *Decrees of Simplicius.*

‘ The revenues of every church, and the oblations, are to
 ‘ be divided into four portions ; one for the bishop, a second
 ‘ for the clergy, a third for the poor, and a fourth for the fa-
 ‘ bric of the church : And let the good repairs of the sacred
 ‘ buildings

THE clergy of modern times, therefore, who speak of all alienations of TITHES as frauds on their rights, should remember, that their conduct, in appropriating the whole of the revenues of the church to their own use, is a manifest deviation from the practice of the primitive ministers of Christianity. No fact in history admits of clearer proof, than that TITHES were not originally given to the clergy as their exclusive property; and it is certain, that, even as late as the fourteenth century, the poor had a *legal* claim on the ecclesiastics for a portion of the TITHES*.

AN ancient canon, ascribed to Egbert archbishop of York, who lived in the eighth century, directs, that TITHES shall be divided into *three* parts; one for the repairs of the church, one for the poor, and another for the clergy; and that distribution shall

* buildings demonstrate the bishop's care of them; and let
 * witnesses, of the best credit, testify his faithfulness in giving
 * to the poor their portion.

Decrees of Gelasius, Bishop of Rome, anno 492.

* 15 Rich. II. c. 6. and 4 Hen. IV. c. 12. Ruggles's Hist. of the Poor, vol. 1. p. 25—30.

shall be made of them ‘*coram testibus*,’ before witnesses *. This caution was adopted to prevent the misapplication of the TITHES by the clergy through whose hands they passed †. And in corroboration of the canon of Egbert, Selden mentions, that in a collection of canons, found in the Abbey of St. Augustine in Canterbury, there is a chapter *De Divisione Decimarum*, in which directions are given for the division of TITHES into *three* parts, *before witnesses*. And from the laws of Ethelred, and several other laws which might be quoted, there is no doubt, it was long the custom to divide TITHES into *three* parts, after the more ancient

* Selden’s Hist. of Tithes, p. 196.

† In the beginning of the eighth century, complaint was made to Pope Gregory the Second, from the bishopric of *Mentz*, that the clergy had seized upon the tithes and other property given to the church, and would give nothing to the poor. Gregory, in reply, by an epistle directed to the clergy and people of that bishopric, gives the following directions. The tithes, tributes, gifts, and other revenues of the churches, you must divide into *four* parts; of which your bishop Boniface must have one; and the priests, who diligently feed the flock, another; the third must be distributed to the poor and needy; and the fourth is to be kept for the repairs of the church.

Comber on Tithes, part 2. p. 98. Aventin. Annal.

ancient practice of dividing them into *four* parts had ceased.

‘ AT the first establishment of parochial clergy, the TITHES of the parish were distributed in a fourfold division; one for the use of the bishop, another for maintaining the fabric of the church, a third for the poor, and the fourth to provide for the incumbent. When the sees of the bishops became otherwise amply endowed, the bishops were prohibited from demanding their usual share of these TITHES, and the division was into three parts only*.’

IN the present times, the poor are totally excluded from any share of the TITHES; and as to the maintenance of the fabric of the church, a very slight vestige only of the ancient custom remains. An exceedingly small proportion of the TITHES is still in some places expended in repairing the *chancel*; but the other parts of the building are repaired by a tax on the parishioners, except in places where there is a separate fund for the purpose.

ABOUT

* Blackstone's Com. vol. I. p. 384.

ABOUT the middle of the seventh century, the diocese of Canterbury was divided into parishes, and a clergyman was appointed to reside in each parish. Before this time, the clergy generally lived in the same houses with the bishops, and travelled into distant parts of the country, for the purpose of preaching the gospel and administering the sacraments*.

IN the eighth century, superstition made greater progress than at any former period. Monasteries were built in several parts of England, and people of all sorts flocked into them. With the abject credulity of the laity, increased the knavery and rapacity of the clergy; and it appears from the canons of a general council of the Mercians, held at Calcuth, under the pope's legates, it was now boldly asserted, that a TENTH of all the possessions of the laity was due to the clergy *jure divino*†.

MON-

* Bede, lib. 3. c. 26. and lib. 4. c. 7. Collier's Eccles. Hist. vol. 1. p. 229.

† Spelman's Con. p. 298.

MONTESQUIEU, speaking of the establishment of TITHES, says, "No one questions, but that the clergy opened the bible before Charlemain's time, and preached the gifts and offerings of the Leviticus. But I dare say, before that prince's reign, though the TITHES might have been preached up, they were never established."

"BUT the synod of Frankfort, held under Charlemain, in the year 794, furnished a cogent motive to pay the TITHES. A capitulary was made in that synod, wherein it is said, that in the last famine, the ears of corn were found to contain no seed, *the infernal spirits having devoured it all, and that those spirits had been heard to reproach the people with not having paid TITHES*; in consequence of which it was ordained, that all those who were seised of church lands should pay the TITHES; and the next consequence was, the obligation extended to all *."

IN

* Spirit of Laws, b. 31. c. 12. *Vide also Gibbon, vol. 9. p. 178.*—from the Council of Frankfort.

IN the latter part of the eighth century, Offa, king of Mercia *, made a journey to Rome, to obtain the pope's pardon for the murder of Ethelbert king of the East Angles ; and the pope granted him a pardon, on condition that he would be liberal to the clergy. To make atonement, therefore, for his sin, Offa gave to the church the TITHES of his whole kingdom. He also gave to the church of Rome, the tax called Peter-pence, a tax of one penny yearly on every house in his dominions of a certain rent †.

ABOUT the middle of the ninth century, Ethelwolf, a weak and superstitious prince, made a solemn grant to the church of a tenth part of the lands in his kingdom. But it appears from this grant, that *poor laymen* were to be partakers with the clergy of Ethelwolf's bounty ‡.

“THE

* The kingdom of Mercia, the largest of the Heptarchy, included the middle counties of England, and extended from the Thames to the Humber, and from the Severn to the kingdoms of Essex and East Anglia.

† Spelman's Concilia, p. 308.

‡ Wilkins's Con. Mag. Brit. vol. 1. p. 183.

“THE ecclesiastics in those days of ignorance,” says Mr. Hume on the reign of Ethelwolf, “made rapid advances in the acquisition of power and grandeur. Not content with the donations of land made them by Saxon princes and nobles, and with temporary oblations from the devotion of the people, they claimed a vast revenue as belonging to them by a sacred and indefeasible title. However little versed in the scriptures, they had been able to discover, that, under the Jewish law, a tenth of all the produce of land was conferred on the priesthood; and, forgetting that the moral part only of that law was obligatory on Christians, they insisted that this donation conveyed a perpetual property inherent by divine right in those who officiated at the altar. They even ventured farther than they were warranted by the Levitical law, and pretended a right to the TENTH of all industry,—gain by merchandize,—wages of labourers,—and pay of soldiers: Nay, some canonists went so far as to affirm, that the clergy were intitled to the TITHE of the profits

profits made by courtezans in the exercise of their profession *."

IN the year 928, a grand council was held by King Athelstan; the first canon of which respects the payment of TITHES.

" I KING ATHELSTAN, by the advice of my archbishop and bishops, strictly enjoin all my reeves, in the name of God and all his saints, to pay the TITHES, both of the cattle and corn, out of all my lands." And after a quotation from the Old Testament, and another from the New, it is added, " And let us remember it is threatened in the same books, that if we will not pay our TITHES, the nine parts shall be
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* Father Paul's Hist. of Benefices.

During the plenitude of priestly power, tithes bore a great similarity to some of the taxes under the most infamous Roman emperors. Caligula claimed an eighth part of the wages of labourers, and *ex capturis prostitutarum quantum quæque uno concubitu mereret.* Suet. Calig.

But a writer of the present times goes much farther than Mr. Hume, and says, that the story of *La F——*, entitled, *Les Cordeliers de Catalogne*, was founded in fact, and that the confessors absolutely demanded and received such tithes as *La F——* mentions.

taken from us, and the tenth part only shall be left us *.

CANUTE, the Dane, became king of England in the beginning of the eleventh century. He bestowed large revenues on the ecclesiastics, and ordered prayers to be said in several places for the souls of the people whom he had murdered. He went on pilgrimage to Rome, and wrote from thence in the year 1031, to desire that TITHES might be regularly paid. After his return from Rome, he made several laws for the payment of *Rome-scot*, *church-scot*, *light-scot*, and *soul-scot*: And it appears from one of his laws, that the usual method of paying the TITHES of ploughed land, was to set out for the church the whole produce of every tenth acre †.

WILLIAM

* Wilkins's Con. vol. I. p. 205.

This is a gross falsity. Nothing like it is to be found in the Old or New Testament. The menace may be found in Ambrose and Augustine, and has been quoted in page 10.

We have here one proof, among many more which might be produced, of the scandalous forgeries palmed upon the people in those times.

† Spelman's Concilia, p. 563.

WILLIAM the Conqueror, about the year 1070, directed those TITHES to be paid which had been withheld through the instigation of the devil, as we are informed, and the negligence of rich priests*. William brought into England the feudal laws of Normandy, and obliged the clergy to maintain foldiers for the public benefit. In this century, before many considerable estates were taken from the church, it is generally believed, that the clergy were in possession of more than one third of the land in the kingdom, and that exempt from all taxes: For it had been declared by authority, more than one hundred years before, that the clergy were the sons of God, and that the sons of God ought to be free from all taxes in every kingdom†.

UNTIL the tenth century, every man paid his own TITHES to what church he pleased; but by a law of King Edgar it was directed, that the TITHES arising in

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each

* Spelman's Con. p. 416.

† Constitutions of Odo, archbishop of Canterbury, published anno 943. Wilkins's Con. vol. II. p. 212. Henry's Hist. of Eng. vol. II. p. 188. 211.

each parish, should be paid to the church of that parish. However, through the instigation of the monks, this law was resisted, and arbitrary consecrations of TITHES took place again afterwards, and continued till the time of King John *, when Pope Innocent the third, in the year 1200, in a decretal epistle sent to the archbishop of Canterbury, enjoined the payment of TITHES to the parish priests, as directed by King Edgar. But this epistle was not considered as binding on the lay subjects of the realm at the time when it was first issued †. This pope declared it to be a grievous sin to give the TITHES and first fruits to the poor, and not to the priests: From which we may conclude, that a proportion of the TITHES and first fruits was at this time disposed of in support of the poor, and that the ancient custom was not totally lost sight of.

By various artifices, the monks, or the regular clergy, as they were called, had at
this

* Selden's Hist. of Tithes.

† Blackstone's Com. vol. II. p. 27.

this time engrossed far the greatest share of the property given by the laity for superstitious purposes, and the secular, or parochial clergy, who were the most useful, were in general kept very poor*. But the restriction of Pope Innocent, with regard to the payment of TITHES, became in a short time the law of the land †, and the parochial clergy became rich, idle, and oppressive. Hence, as the celebrated reformer Wickliffe ‡, in the fourteenth century, complains to the king and parliament, “ *the poor were constrained to support a worldly priest in pomp and pride, in gluttony and drunkenness, with fat horse and jolly, and gay saddles and bridles, ringing by the way, himself in costly clothes and pelure, whilst his*

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poor

* The monks, in order to enrich themselves, did every thing in their power to impoverish the parochial clergy, and to depreciate their services. “ Alas! what was the *single devotion* of a *silly priest*, in comparison of a corporation of prayers from a monastery?”
Fuller’s Hist. of Abbies.

† Coke’s 2 Inst. 641.

‡ Wickliffe was the rector of Lutterworth in the county of Leicester.

poor neighbours perished with hunger, thirst, and cold."*

IN the fourteenth century, Richard the second confirmed, in the usual way, the rights and liberties of holy church; but by an act passed near the conclusion of his reign, it was directed, that in all appropriations of churches, the diocesan bishop should ordain a convenient sum of money to be distributed out of the fruits and profits of every living, among the poor parishioners annually, in aid of their living and sustenance †. "It seems," says Blackstone, in observing on this act, "the people were frequently sufferers by the withholding of those alms for which, among other purposes, the payment of TITHES was originally imposed."

IN the reign of Henry the sixth, in the fifteenth century, a *Penitential* was made for the use and direction of priests in auricular

* Selden's Hist. of Tithes, p. 291. Lewis's Life of Wickliffe, p. 121.

† 15 Rich. II. c. 6.

cular confession, containing the following curious particulars relative to TITHES :

“ HAST thou truly paid thy tithings and offerings to holy church ? Thou art to understand, that at the beginning of the world, Adam was directed to give to God the TENTH part of every thing ; and God bade him teach his children to do the same. Adam had two sons, Cain and Abel. Abel tithed truly, and of the best : Cain tithed falsely, and of the worst. At last the false tither, Cain, slew Abel his brother, because Abel blamed Cain, and said he tithed falsely ; wherefore God cursed Cain, and all the earth. So you now see that *false titthing was the cause of the first manslaughter that ever was ; and it was the cause why God cursed the earth* *.”

HENRY the eighth directed the payment of TITHES to be continued, considering, “ that divers numbers of evil-disposed persons, having no respect to their duties to Almighty God, had attempted to subtract
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* Selden's Hist. of Tithes, p. 169.

and withhold in some places the whole, and in some places great part of their TITHES and oblations, as well personal as predial, due unto God and holy church; and pursuing such their detestable enormities and injuries, had attempted to disobey the ecclesiastical courts *.” This *pious* king, however, did not much consider, in other instances what was due to holy church; for, in the very same year in which this act passed, he seized the revenues of between three and four hundred monasteries, and turned out of their habitations of indolence and vice, six or eight thousand monks, to work for their living. Henry fixed a money-payment in lieu of the mortuary, or Canute’s soul-scot, *symbolum animæ*, claimed by the clergy as a sort of ecclesiastical heriot, to be paid out of the effects of the person deceased, in order to make satisfaction to the church for the TITHES or ecclesiastical dues which he had forgotten, or wilfully neglected to pay in his life-time†.

By

* 27 Hen. VIII. c. 20.

† Before the statutes of Henry the eighth, the claims of the ecclesiastics on the effects of deceased persons were enormous. In the archdeaconry of *Richmond*, in the county of *York*, ‘divers

By a statute of Edward the sixth, every person is directed to set out and pay all manner of *predial* TITHES * in kind as they happen, under the penalty of treble the value of the TITHES. And any person to whom the TITHES are due, or his servant, shall see the TITHES set forth; and no person shall carry away his corn or hay before the TITHES be set forth †.

THUS

‘ vers and many of the king’s subjects were, and of a long time
 ‘ had been, forely and grievously exacted and impoverished by
 ‘ the parsons, vicars, &c. who took sometimes the ninth, and
 ‘ sometimes the *third* part of all the goods and chattels of
 ‘ every person who died within the archdeaconry.”

26 Henry VIII. c. 15.

* Predial tithes are the tithes of corn, hay, and other produce of the ground.

† 2 and 3 Edw. VI. c. 13. By this act it is also said, that barren heath or waste ground, when converted into arable land, shall pay no tithes of corn and hay for seven years.

But the construction put upon this part of the act, is, that the land must be *suapte natura* barren. *Coke’s 2d Inst.* 657.—In fact, however, very little, if any, such barren land is to be found in England, as by this act is exempt from tithes, when converted into tillage; although in many instances of vast expence and risk in rendering waste land arable, it seems highly reasonable that

THUS much for the origin of TITHES.—

It may now be proper to shew, by a short account of the state of agriculture in England, at different periods, that the imposition of TITHES could not possibly, at any time, be so grievous as at the present.

IN times when the revenues of kings could not be paid in any other way than in a proportion of the scanty produce of the earth, the least inconvenient method of maintaining the clergy, might be by contributions of the same kind. For this reason, amongst others, it is probable, less resistance was made to the payment of TITHES, than the first claimants of them would otherwise have experienced.

ON

that it should be exempt from tithes for a much longer time than seven years.

‘ The determinations on the act have all been agreeable to
 ‘ Lord Coke’s Comment, where the rule laid down is, If land
 ‘ is in its own nature so barren as not to be proper for agri-
 ‘ culture, it shall not pay tithe for seven years after it is im-
 ‘ proved; but otherwise it shall, &c. There is an expence in
 ‘ gaining land from the sea, yet no seven years are allowed,
 ‘ although the land was overflowed time out of mind.’

Stockwell and Terry, Vex. Rep. 115. pl. 56.

ON the arrival of the Saxons in Britain, about the middle of the fifth century, the British husbandmen were driven from the most fruitful, into the most barren parts of the country; and that degree of improved knowledge in the cultivation of land, which had been introduced by the Romans, was almost totally lost. Some attention was, however, still paid to agriculture. But it was directed by the British legislators, that no man should undertake to *guide* a plough, who could not *make* one; and that the driver should make the ropes for drawing the plough of twisted willows. It was considered as a matter of great consequence to fit out one of those ploughs; and six or eight persons usually formed themselves into a society for the purpose of providing oxen and every thing necessary for the undertaking*.

By the laws of Ina, king of the West Saxons, who reigned in the seventh and eighth centuries, it appears that agriculture was then very little known. A farm, consisting

* Henry's Hist. of Eng. vol. 2. p. 383. *Leges Wallice.*

fifteen of ten hides, or plough lands, (about 1200 acres), was to pay the following low rent: Ten casks of honey; three hundred loaves of bread; twelve casks of ale; thirty casks of small beer; two rams or ten wedders; ten geese; twenty hens; ten cheeses; one cask of butter; five salmon; twenty loads of forage, and one hundred eels*.

IN the middle of the tenth century, an acre of land was purchased for one shilling; and an hide of land, which usually contained one hundred and twenty acres, at one hundred shillings†. And although agriculture in England was improved in some degree by the many thousands of husbandmen who came from Flanders, France, and Normandy, on the Norman invasion in 1066, yet in the year 1234, a person held thirty acres of land at ten shillings yearly rent, or at fourpence per acre.

IN the year 1326, a capital messuage, with seventy acres of arable land, in Kent,
was

* Wilkins's *Leges Anglo-Saxonicae*, p. 25.

† Fleetwood's *Chronicon Preciosum*, chap. 4.

was worth no more than one pound fifteen shillings *per annum*. Eighty acres of arable land were worth twenty shillings *per annum*, or three pounds of modern money, which makes the price ninepence of our money, per acre*.

By a statute of Henry the sixth †, towards the middle of the fifteenth century, wheat was allowed to be exported when at six shillings and eightpence a quarter. The price of a fat ox, at that time, was thirteen shillings and fourpence. Thus a quarter of wheat was then equal to one half of the value of a fat ox. This great disproportion between the prices of corn and cattle, puts it beyond doubt, that the tilling of land was at that time but little understood or practised, and that of consequence little corn was grown ‡. At that period there were

* Fleetwood's Chron. Preciosum.

† 23 Hen. VI. c. 6.

‡ *Vide*, in Fleetwood's Chron. Preciosum, the very high prices of grain (compared with the prices of other articles) for many centuries previous to this period. See also, in Hume's Hist.

were but few inclosures in the country, except for deer; and the quantity of hay or other food which was preserved for the cattle in the winter was very small. The barons, therefore, generally killed and salted in the autumn, for their winter subsistence, great numbers of fat oxen and sheep, before the common pastures were so bare as that the cattle became lean upon them.

IN the year 1544, two hundred acres of good land in Cambridgeshire were let at ten pounds *per annum*, or at about one shilling and threepence per acre of our money*.

IN those ages it is evident then, that TITHES were far less burthensome than at present,—as the burthen is according to the ratio of improvement. From the state of agriculture in England, when predial TITHES were at first claimed, and when it was looked on as a matter of such great importance

Hist. of Eng. vol. III. an extract from a curious household book of one of the Earls of Northumberland, who lived at *Wrysel, Leckonfield, and Topcliffe*, in *Yorkshire*.

* Anderson on Commerce, vol. II. p. 75.

importance to fit out a plough, very little more than the spontaneous fruits of the earth could possibly be included in them. But the difference between paying a tenth part of what the ground produces, without labour or expence, and what it may be made to produce, by the modern expensive improvements in husbandry, is sufficiently obvious; and the law of the land, which has grown out of the edicts of weak or wicked kings, under the influence of Romish councils, is become the engine of cruelty and extortion.

As the law now stands, the farmer is compelled to pay the TITHE of his labour: For one tenth part of all his labour, in the cultivation of arable land, is actually taken from him. Out of ten pounds expended in labour, one pound goes to the tithe-owner, inasmuch as he engrosses all the beneficial effects arising from it. And the farmer never pays his day-labourer a single half-crown for reaping in his field, but he has to reflect that the tithe-owner has taken threepence from him,—as no more than two shillings and threepence of the half-crown

crown are expended for his own benefit. Thus TITHES are a tax of *ten per centum per annum* on all the money disbursed by the farmer in the cultivation of all the arable land in his possession, which is subject to TITHES.

“IT is labour,” says Mr. Locke, “which
 “ puts the greatest part of the value upon
 “ land, without which it would scarcely be
 “ worth any thing: It is to that we owe the
 “ greatest part of all its useful products; for
 “ all that the produce of an acre of wheat is
 “ more worth, than the produce of an acre
 “ of as good land which lies waste, is the
 “ effect of labour.—Nature and the earth
 “ furnish only the almost worthless mate-
 “ rials as in themselves *.”—This is indis-
 putably true. It is to the labour of the
 country that we are indebted for the rich
 crops of grain which are now produced by
 lands, which, till within these few years,
 were covered with water, or overspread
 with briers and thorns.

BUT

* Locke on Civil Government.

BUT as the labour in fertilizing these sorts of ground is frequently so very great, that it cannot be repaid in many years, a tax upon that labour must appear very unreasonable. Nevertheless, whatever money is expended in embanking, draining, fencing, manuring, or in improving, in any way, an arable estate, is, in fact, all taxed by the tithe-owner, who takes one tenth part of the money so expended. Through the extraordinary industry of the farmer—"the barren wilderness may become a fruitful field,"—but for this industry he is compelled to pay such a tax to the tithe-owner, as greatly represses his exertions, and as is proportionably oppressive with the greatness of the labour necessary to overcome the difficulties in his way.

THE farmer, however, not only pays the TITHE of his labour, how great soever that labour may be, but he pays the TITHE of his rent also. Out of one hundred acres of arable land, the tithe-owner, in reality, takes the whole produce of ten acres; and for these ten acres the farmer is obliged to pay the rent to the landlord, as well as to

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pay

pay all the expences of the seed and labour necessary to produce a crop. From a tenth part of his rent, therefore, the farmer derives no benefit; and in taking a titheable farm, he ought always to consider, that in every one hundred acres of arable land, he is compelled to pay the rent of ten acres for the tithe-owner, as well as to plough and sow the land, and reap the crop for him*.

BUT so invariably adverse are TITHES to the interests of the occupiers of land, that the farmer may suffer great loss by his farm, and yet the tithe-owner may receive profit from it, although every farthing of that profit is an addition to the absolute loss of the farmer. If the rent, feed, and labour of a farm amount to one hundred pounds, and the

* The land-owner, then, would not hesitate to give to the tithe-owner one tenth part of his arable land, in order to purchase an exemption from tithes. But the tithe-owner will by no means accede to such a proposal, as he receives a crop from the tenth part of the land, which, according to the usual mode of calculation, is worth three times the annual rent of the land; and therefore he receives three times as much from a tenth of the land, as he would receive if that tenth of the land were his own. Hence, if the tithe-owner is to have such a quantity of land in lieu of tithes, as will let for a rent equivalent to the produce of one tenth of the land, he must have three tenths, or nearly one third of the land.

the value of the crop be one hundred and ten pounds, the tithe-owner takes eleven pounds profit, and the farmer does not get the money which he expended. But if through unfavourable weather, or any inevitable misfortune, the value of the crop of the farm is not more than eighty pounds, the tithe-owner takes eight pounds profit, and the landholder suffers an absolute loss of twenty-eight pounds. And should the value of the crop be no more than sixty pounds, the tithe-owner receives six pounds profit, and the farmer loses forty-six pounds.

AND, in cases of profit, if the farmer, before the payment of the TITHES, have actually gained twenty pounds *per centum*, he must pay to the tithe-owner *twelve* pounds out of the twenty pounds, and retain only *eight* pounds *per centum* profit for himself, as the TITHE is paid of the capital employed as well of the profit obtained; and if he have gained twenty-five pounds *per centum*, he must pay to the tithe-owner *twelve* pounds *ten* shillings (the TITHE of one hundred and twenty-five pounds), and retain only *twelve* pounds *ten* shillings *per centum* as his own profit.

THUS it is evident, that if, in the cultivation of arable land, the farmer gain even *twenty-five pounds per centum*, before he pay the TITHE, the tithe-owner will take ONE HALF of his profit from him; and if he do not gain so much as *twenty-five per centum*, the tithe-owner will take two-thirds or three-fourths of his profit, in proportion as his profit may be less than *twenty-five per centum*,—for the less the farmer's profit, the greater proportion of it is taken by the tithe-owner; and when the profit is no more than *ten per centum*, the tithe-owner takes more than the whole of it, as the TITHE of one hundred and ten pounds is eleven pounds.

BUT admitting that the profit of the farmer may in general be equal to that of the tithe-owner, or exceed it;—Is it equitable, that whenever I work for myself, I should be compelled to work for another person also? Let it be conceived, that by an unjust law, I were laid under the necessity of providing the means of support for an indolent, useless family in the town in which I live, and that I were compelled to
work

work for that family as long as I should work for my own, and with the certainty that one third or one half of my gains would be taken from me. Ought such an oppression to be borne? But the laborious farmer is obliged, in many instances, either to give up one third or one half of his profit to the tithe-owner, or by relaxing in his diligence give him the power of taking a much greater proportion, if not the whole, of what he may gain.

AND should the landholder attempt to improve his land beyond the usual practice of farmers, the marauding dæmon of TITHES still pursues him with equal rapacity.

IN many parts of the country, it is found that land which by the common mode of management, produces about twenty bushels of wheat *per* acre, may, by an additional expence of *forty* shillings *per* acre, in labour and manure, be made to produce *thirty* bushels of wheat *per* acre. But in consequence of this improvement, the tithe-owner will take an additional bushel of wheat,—the tenth part of the extraordinary

produce. So that if the whole improved produce of ten bushels of wheat be valued at fifty shillings,—five shillings *per* bushel,—the farmer gains only five shillings, by expending forty shillings,—and the tithe-owner gains five shillings, without any expence whatever, and takes away just one half of the profit arising from the extraordinary labour and expence of the farmer. And if the ten bushels of wheat be valued at six shillings *per* bushel, the bushel of wheat, which the tithe-owner takes, will be one third of the extraordinary profit of the farmer,—if the farmer deduct the interest on the forty shillings expended, as he certainly ought.—It is certain, that in improvements of this kind, the additional quantity of corn produced, and the money expended in labour and manure will vary according to the quality of the land and other circumstances, but still this mode of calculation proves that TITHES tend to prevent the increase of the growth of corn.

SHOULD it still be said, the farmer will not be deterred, by TITHES, from cultivating his land in the best manner, as he is
wiser

wiser than to lessen his nine parts of the crop, for the purpose of diminishing the tenth part, which belongs to the tithe-owner:—I would reply——

SOME people speak of TITHES in this way for the purpose of deception, and others through ignorance. The expence of raising the crop, which falls wholly on the nine parts, is here kept totally out of sight. In general, the rent, seed, and labour, or in other words, the charges of producing the crop, are equal to two thirds of the value of the crop, or more. If those charges be equal to seven tenths of the crop, (which are very little more than two thirds) then three tenths are left for the farmer and the tithe-owner together, and the proportion of profit is as two to one, and not as nine to one, as might be inferred from the above deceptive statement: For if seven tenths of the crop are sunk in the expences of producing it, three tenths only remain, of which the farmer takes two and the tithe-owner one; and thus the TITHE is equal to one half of the profit of the farmer. But in many cases, it is evident that the tenth of the crop may be

great a proportion of the profit, as entirely to deter the farmer from cultivating his land in the way which would be the most advantageous to himself, and to society in general, if no TITHES were paid.

WHERE the land is bad, and requires more than the usual expence of labour previous to the production of a crop, it is a notorious fact, that the tithe-owner frequently carries away much more property than is equal to the whole profit of the farmer, or to the full annual value of the land paid to the landlord. And in some instances, particularly from hop-grounds, the tithe-owner takes as much property as is worth more than double the rent paid to the land-owner.

It is clear, however, that if the TITHES be equal only to one half of the rent of the land, the estate is worth less to the owner by one half of its present value than it would be, if it were free from TITHES; for if it were free from TITHES, the rent might be advanced one half of what it is at present, and the profit of the farmer would not be in the least diminished: And if the TITHES be

worth the whole of the rent, the estate, if exempt from TITHES, would be worth to the owner double its present value. And if the full value of the present TITHES were paid to the land-owner as a rent, the farmer would be left with some hope of profit and incitement to improvement, as he would know, that after paying the rent, the excess of produce beyond the additional rent would be all his own; whilst on the contrary, it is absolutely certain, that TITHES in kind will increase in proportion to his exertions, and that no labour or expence can possibly outrun them. Hence the difference to the farmer between paying an additional rent, and TITHES in kind; and hence the direct opposition of TITHES to all agricultural improvement.

IT is a general principle in agriculture, that the produce of a farm in one year ought to be equal to three times the rent of the farm. According to this rule, one third of the value of the crop is supposed to be appropriated to the payment of the rent, one third expended in the labour necessary to produce the crop, and one third left for the subsistence and profit of the farmer. From
this

this mode of calculation, the tithe-owner, if he accept a money-payment, thinks himself justified in fixing his claim at one tenth of three times the rent: So that if the farmer pay fifteen shillings *per* acre for his arable land, the crop, if equal to three times the rent, will be worth forty-five shillings *per* acre,—of which the tithe-owner says he is entitled to one tenth, or four shillings and sixpence *per* acre. Thus the farmer pays the TITHE of the fifteen shillings which are paid for rent, and of the fifteen shillings expended in labour; as well as of the fifteen shillings left for his own subsistence and profit. The conclusion then is, that TITHES are a tax of TEN *per centum per annum* on the money paid for the rent, TEN *per centum per annum* on the money expended in labour, and TEN *per centum per annum* on the money left for the subsistence and profit of the farmer; and the farmer is compelled to pay the TITHE every year, of the money which he makes use of in carrying on his business, as well as of the profit arising from it.

THE

THE payment of personal TITHES, or of the tenths of the profits arising from trade, and manual labour, was long ago resisted as an intolerable grievance: But in many instances, *personal* TITHES were far less oppressive than predial TITHES are at present. When the clergy insisted that all traders should pay a tenth part of their gains on each separate article of merchandise, and that the loss by one article should not be deducted from the gain by another*,
no

* By the outhority of God, the Sonne, and the Holy Ghost, and his glorious Mother and mayden our Lady Saint Mary, and the blessed Apostles, Martyrs, Confessours, and Virgins, and the halowes of God, we denounce and shew for accursed al thoe that franchises of holy church, breake or distrouble, or thereto assent. Also al that wittingly or wilfully tythen falsly, that is to say, that given not to God and holy church the tenth part of every winning leefully wonnen in marchandize, or in any other crafts, withdrawen only that expence, and the costage that needfully must be made about the thing whereof the winning is gotten, not tything the winning of one marchandize with the loss of another. We denounce all such accursed of God, and of holy church, from the sool of their foot to the crown of their head, sleaping and waking, sitting and standing. Fiat. Fiat. Doe to the book. Quench the candle. Ring the bell. Amen. Amen.

This is a small part of a general sentence of execration which was solemnly thundered out against the people, by the clergy, four times in every year, and which is extracted from the Articles of the GENERAL GREATER CURSE found in St. Paul's church at CANTERBURY in the year 1562. *Vide, View of the Civil and Eccles. Law, by Sir Thomas Ridley, Knt.*

no TITHE of the money employed as a stock in trade to obtain the gain, was ever required, nor was any TITHE paid if the trader gained nothing ; but the farmer pays TITHE every year of the capital which he employs, as well as of the gain by the employment of it ; and if he absolutely lose three fourths, or nine tenths of his capital, still, in the wreck of his property, and in the ruin of his family, he must pay TITHE of the small part of his capital which is saved.

VERY few merchants, in the present day, would submit to pay a tenth part of their *profits* to the clergy. But estimating the profits of the merchant at ten *per centum per annum* on a capital of 5000*l.* the TITHE of his profit would amount only to 50*l. per annum* ; whereas if the farmer gain ten *per centum per annum* on a capital of 5000*l.* employed in the cultivation of arable land, the TITHE which he is compelled to pay is more than his whole profit, and is actually FIVE HUNDRED AND FIFTY POUNDS *per annum*, just ELEVEN times as much as the merchant would pay.

BUT

BUT if the merchant would resist the payment of the tenth part of his profits, he certainly would resist the payment of a tenth part of his capital, every time his capital was employed in the making of fresh purchases of merchandise. The farmer, however, absolutely pays to the tithe-owner both a tenth part of his profit, and a tenth part of his capital, every time his money is employed to produce corn ; and, in reality, it is a condition imposed by the tithe-laws, that no man shall employ any money to produce corn of any kind, without paying to the tithe-owner ten pounds out of every one hundred pounds capital which he so employs, as well as the tenth part of the profit which he may obtain.

IN predial TITHES, the hay and the straw, which are essentially necessary to the production of manure, are taken away, although it is by manure alone that the farmer can renovate his land. But he is deprived both of the fruit of his land, and of that which can alone make his land fruitful ; and yet if he do not obtain manure by some means, he may not be able to raise as much grain

grain as will enable him to pay his rent. In the way therefore in which the farmer is deprived of his present produce, he is also deprived of the means of obtaining future produce. With the TITHES in kind this year, are lost the means of producing manure for the purpose of raising grain the next year. Hence the evil effects of TITHES are not immediate only, or such as end with the year, but they extend into futurity in an accumulated degree.

THUS he who deserves the most highly of his country, in consequence of the improvements he has made, is the most severely burthened. The most valuable class of men in the nation—on whose labours we depend for our very existence*—are deprived of the fruit of their industry, and are compelled to labour, with the dire certainty, that in proportion to their exertions and expences, will be the exactions of the tithe-owner†.

* *Agricola in curvo terram dimovit aratro ;
Hinc anni labor ; hinc patriam parvosque nepotes
Sustinet*——— *Virg. Georg.*

† “ The exaction of tithes is so absurd and tyrannical an attack on the property of mankind, that it is almost impossible

BUT it is asserted, that when estates subject to TITHES in kind are sold, the purchasers give proportionably lower prices for them. This may be true,—but it by no means disproves, that TITHES are an impediment to agriculture. For if I buy a titheable estate at a lower price than that which is tithe free, I am debarred from improving it, by the odious tax on all the labour and money expended upon it. If I had given a higher price for it exempt from TITHES, I should have had the satisfaction to reflect, that I was to reap all the profit of my own labour, and that all my expences were for my own advantage ; and therefore I should have adopted such a mode of cultivation as was the most suitable to the quality of the land. But in cultivating titheable land, the
previous

“ for them to continue in any country in the world half a century longer. To pay a man by force 1000l. a year for doing
“ by deputy what would be much better done for 100l. is too
“ gross an imposition to be endured. To levy that 1000l. in
“ the most pernicious method that can wound both property
“ and liberty, are circumstances congenial to the tenth century, but not to the eighteenth. Italy, France, and America
“ have set noble examples for the imitation of mankind ; and
“ those countries that do not follow them will soon be as inferior in cultivation as they are in policy.”

Arthur Young's Travels in France, page 550.

previous consideration of every prudent man is,—How much will the tithe-owner take from me in this case; and, after all my labour and expence, will he not take half my profit from me, or more? This he certainly will do in the instances which have been already stated*.

THE woollen manufacture, which is justly considered as of the greatest consequence to this nation, has no doubt been prejudiced by the burthen of TITHES on lambs and wool. It is now generally allowed, by farmers of experience and observation, that sheep are the most profitable stock which can be kept on many sorts of land, and would be abundantly so, if the tenth lamb and the tenth fleece were not taken from them †. But as sheep pay so much more TITHE than other cattle, there is no doubt the

* *Vide* pages 38, *et seq.*

† If the farmer should find it necessary, before sheep-shearing, to take a small quantity of dirty wool from the posteriors of his sheep, for the purpose of keeping their tails clean, it has been determined, tithe shall not be paid of that—if he take no more than is necessary!

1 Roll. Abr. 646. pl. 17.

the increase of them has been restrained by tithes, to the great injury of agriculture and and the woollen manufacture.

If it be said, our agriculture and our woollen manufacture are now in a state of prosperity, beyond that of former years*, the fact is admitted. But this is no more a proof, that either is not oppressed by TITHES, than our present general national prosperity is a proof, that we are not burthened with taxes. And it is as unreasonable and monstrous to urge, that there is no necessity to abolish TITHES, because agriculture and the woollen manufacture flourish under the weight of them,—as it would be to say, the load of taxes is no grievance, because the nation prospers under it.

To every nation in the world, agriculture is of the greatest consequence. “ By agriculture only can commerce be perpetuated; and by agriculture alone can we live in
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plenty

* The first edition of this pamphlet was published in the year 1792, before the war commenced.

plenty without intercourse with other nations." In China, agriculture has long been encouraged above every other science*. In England, for the last fifty years, a generous and patriotic spirit of improvement in husbandry has been manifested, by several principal men in the nation; and societies have been instituted, and rewards offered, for the purposes of exciting experiments, and of spreading useful knowledge amongst the occupiers of land. These laudable measures have produced the most salutary effects,—and the nation is highly indebted to the authors of them : And were it thought consistent with the purposes for which those gentlemen are associated, their labours might be rendered much more extensively beneficial, by an application to parliament for an abolition of TITHES, by a just commutation of them.

MR.

* In the spring of every year, the Emperor of China goes to plough in person, attended by all the great men of the empire. Great solemnity is observed in the performance of the ceremony; and the emperor offers a sacrifice to CHANG-TI, the supreme God, in order to procure a plentiful crop for his subjects.

MR. PALEY has justly observed, that
 ' Agriculture is discouraged by every consti-
 ' tution of landed property, which lets in
 ' those who have no concern in the improve-
 ' ment to a participation of the profit. But
 ' of all institutions which are in this way
 ' adverse to cultivation and improvement,
 ' none is so noxious as that of TITHES.
 ' A claimant here enters into the produce,
 ' who contributed no expence whatever to
 ' the production. When years, perhaps, of
 ' care and toil, have matured an improve-
 ' ment,—when the husbandman sees new
 ' crops ripening to his skill and industry,—
 ' the moment he is ready to put his sickle
 ' to the grain, he finds himself compelled
 ' to divide his harvest with a stranger.
 ' TITHES are a tax not only upon industry,
 ' but upon that industry which feeds man-
 ' kind,—upon that species of exertion which
 ' it is the aim of all wise laws to cherish
 ' and promote; and to uphold and excite
 ' which, composes the main benefit that the
 ' community receives from the whole sys-
 ' tem of trade, and the success of com-
 ' merce. And, together with the more ge-
 ' neral inconvenience that attends the exac-
 ' tion

‘tion of TITHES, there is this additional
 ‘evil, that they operate as a bounty upon
 ‘pasturage.—The burthen of the tax falls
 ‘with its chief, if not its whole weight
 ‘upon tillage; that is to say, upon that
 ‘precise mode of cultivation which it is the
 ‘business of the state to relieve and remun-
 ‘erate in preference to every other *.’

TITHES are undoubtedly a grand obstacle in the way of converting pasturage into arable land, although it is certain that there are great quantities of pasture land in the kingdom which are of very little value at present, and which can only be improved by being ploughed. Ordinary grass land, when ploughed up under proper restrictions, very often produces large crops of corn, and becomes doubly valuable to the owners of it, whether it be re-converted into pasturage after a certain period or not. But although improvements of this sort are of the greatest consequence to individuals, and to the nation at large, it is evident that TITHES directly militate against them.

DR.

* Paley's Moral and Pol. Philosophy, vol. II. p. 406.

DR. ADAM SMITH, after shewing that TITHES, under the appearance of perfect equality, are a very unequal tax on lands, adds, 'The TITHE is always a great ' discouragement both to the improve- ' ments of the landlord, and to the cultiva- ' tion of the farmer. The one cannot ven- ' ture to make the most important, ' which are generally the most expensive ' improvements; nor the other to raise the ' most valuable, which are generally, too, ' the most expensive crops,—when the ' church, which lays out no part of the ex- ' pence, is to share so very largely in the ' profit. The cultivation of madder was ' for a long time confined by the TITHES to ' the United Provinces, which being Pres- ' byterian countries, and upon that account ' exempted from this destructive tax, en- ' joyed a sort of monopoly of that useful ' dying drug against the rest of Europe. ' The late attempts to introduce the culture ' of this plant into England, have been ' made only in consequence of the statute ' which enacted, that five shillings an acre ' should be received in lieu of all manner ' of TITHES upon madder*.'

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* Smith's Wealth of Nations, Vol. III. p. 274.

MULTIFORM are the mischievous effects of TITHES. But yet a writer, under the title of "A Master of Arts of Cambridge," who, it is said, is now placed on the bench of bishops, has recommended to the clergy, not to accept of any composition in lieu of TITHES in kind; and he gives it as his opinion, that to prevent disputes between the clergy and laity, "no method could be so simple and efficacious as to *compel* the clergy to take their TITHES in kind *."

SOME of the clergy, sensible however of the oppression which their poorer parishioners in particular, must suffer, were they to insist on TITHES in kind, have the good sense and moderation to let this opinion pass unheeded, and choose rather to accept a reasonable money-payment, than to insist on having a share of the apples, potatoes, and eggs of every day-labourer in their parish. Others of them are very ready to take TITHES in kind, without being *compelled* to do it.

"WERE

* Observations on a general Commutation of Tithes. By A Master of Arts of Cambridge. Printed for Cadell.

“ WERE the clergy to take their TITHES in kind, the universality of the practice,” says this author, “ would be very effectual in silencing murmurs and discontent.”

THERE is the greatest reason to believe the fact would be directly otherwise. What are the effects, in general, in parishes in which they are taken in kind? Are murmurs silenced? Is no discontent manifested? Do the people respect their minister more than they would do, if he were to accept of a reasonable composition in lieu of TITHES? No man of common observation can doubt, that the most effectual way to make the clergy of the church of England universally contemptible and odious, would be to promote a general agreement among them, to take TITHES in kind, and accept of no composition. But the effects of such a combination might furnish greater reason for the old cry,—“ The church is in danger,”—than there has lately been;—and let the clergy consider what may be the consequences of such conduct, before they adopt it.

RIDICULOUS as it may appear, this writer intimates, as one reason for recommending to the clergy to take TITHES in kind, that, as "every opportunity of communication" between the clergyman and his parishioners should be improved, when the clergyman goes to take TITHES in kind, he may urge such friendly advice, and persuasion, in private, as may have greater efficacy on the minds of his people, than his sermons from the pulpit*.—Few of his parishioners however, I conceive, will think themselves under much obligation to him, for his advice on those occasions, or shew themselves much disposed to profit by it; and many of them may think they pay much too high a price for it,

IT is stated in the case of *Dr. Bosworth*† against *Limbrick and others*, that
before

* That great advocate for tithes, Dr. Warren, now bishop of Bangor, seems to be of the same opinion with this writer, and calls tithes a CEMENT between the clergyman and his parishioners ! *Vide* pages 89 and 90.

† Dr. Bosworth, in his bill filed in the Exchequer against his parishioners in the year 1777, for TITHE-MILK, would not permit

before the Doctor went for his TITHE-MILK, the milk-maid had added *urine* to it. As the Doctor's lectures from the pulpit, it seems, had had little effect on this mischievous girl, there could be no objection to his trying what he could do by private advice and persuasion, on the "opportunity of communication" with her, when he took the TITHE of her milk; but it is probable, neither his public nor private admonitions were attended with much success, as he thought it proper at last, to bring
his

permit the defendants to set out every tenth milking, either at morning's milking or evening's milking as they should please; as, he said, *the quantity of milk which a cow gives in an evening, is not so large as that milked from the same cow in the morning, occasioned by the greater length of time between milking, and by the cattle not feeding so much in the day as in the night, by reason of the heat of the weather and the interruption from flies.* But he insisted, he ought to receive the whole milk, milked both morning and evening on every tenth day.

The defendants in answer said, that the tithe of milk ought not to be taken both in the morning and evening of the tenth day, because then their *calves* must on that day go without milk, and there would be no *whey* for their *pigs*.

But the Doctor obtained the morning's meal and the evening's meal of milk of the same day,—and the farmers were left to provide milk and whey for their calves and pigs as they could.

his claim to unadulterated milk into the Court of Exchequer.

CERTAINLY the “ opportunity of communication,” when TITHES are to be taken in kind by the clergyman, is not very earnestly wished for by the parishioners, or likely to be much improved by them; otherwise the tithing-day would not be called the DEVIL’S DAY, as it is in some parts of the country, and was in Dr. Bosworth’s parish.

THIS “ Master of Arts” farther informs us, that “ previous to the last thirty years, the clergy, from moderation, indolence, or ignorance, were contented with an inadequate share of their dues,—but now they are more attentive and better informed.”

THAT the clergy have lately made great progress in increasing their revenues, is beyond doubt;—and it is impossible to say to what extent their claims may be made and enforced, in a few years, if no stop be put to them. As the tithe-laws now stand, claims, which the most rapacious of the
popish

popish clergy would have been ashamed to make, may be made and substantiated by a protestant clergyman. Claims, which have lain dormant for centuries,—nay, which were never made before, and which neither the buyers nor sellers of estates ever thought of, may be brought forward and supported by law, to the great injury and distress of private families. Agreements fairly and legally made, hundreds of years ago, for exemptions from TITHES,—if the written evidence of those agreements be lost,—may be set aside*: And the regular payment of a sum of money in lieu of TITHES of an estate during the memory of the oldest man living, is of itself no security against a claim for TITHES in kind†. In short, as the statutes of limitation do not extend to the demands of the church, and as in a court of law, the *onus probandi* lies

* “ If the instrument given by the parson, patron, and ordinary before the restrictive statutes, to a layman, the owner of a farm, to discharge the farm of all tithes (though this would be good while the instrument could be shewn) should once be lost, this being a privilege *in non decimando*, the privilege would be lost by the loss of the deed.”—*Chapman v. Monson*. 2 *Peere Will.* p. 573. *Burn's Eccl. Law*, vol. III. p. 403.

† 3 *Atk.* 298.

lies upon the laity, the greatest possible encouragement is given to the clergy to harass their parishioners with law-suits for TITHES in kind, and to wrest from them an increase of revenue.

IN the nature of things, those writings which are now the only testimony of legal contracts for exemptions from TITHES, are daily decaying. But, from the law, as stated by Lord Chancellor King, in the case of *Chapman v. Monson*, it follows, that as fast as those writings perish, the advantages of the clergy increase. Lands which in the hands of former owners were exempt from TITHES, in consequence of a valuable consideration having been paid to the church for the exemption, become again liable to TITHES in kind, if the written evidence of the agreement with the parson, patron, and ordinary be lost. This appears to be as unreasonable, and as contrary to all the principles of justice, as it would be to compel a man to pay a debt a second time, which had been paid two hundred years before, because he could not produce the receipt which had been given for the money to his forefathers.

“ A POSSES-

" A POSSESSION for sixty years, is a bar even against the prerogative, in derogation of the ancient maxim, *nullum tempus occurrit regi*. Twenty years is the time of limitation in any writ of formedon, and by a consequence, the limitation in every action of ejectment; and no entry can be made by any man, unless within twenty years after his right shall accrue. All actions of trespass (*quare clausum fregit* or otherwise) detinue, trover, replevin, account and case, (except upon accounts between merchants) debt or simple contract, or for arrears of rent, are limited by the statute 21 Jac. I. c. 16. to *six* years after the cause of action commenced*."

" THE use of these statutes of limitation," says Judge Blackstone, " is to preserve the peace of the kingdom, and to prevent those innumerable perjuries which might ensue, if a man were allowed to bring an action at any distance of time. Upon these accounts the law therefore holds

* Blackstone's Com. vol. III. p. 307.

holds, that *interest reipublicæ ut sit finis litium.*"

ONE grand object of the laws of the land undoubtedly is, to promote peace and harmony amongst men, on which the comfort and advantages of society so greatly depend;—and as the statutes of limitation which have just been mentioned, tend to preserve the peace of the kingdom, and to prevent innumerable perjuries, a statute of limitation against the claims of the church would certainly produce similar good effects. If the law hold it, in general, to be "*the interest of the state that strife should cease,*" it may, with equal propriety, be held to be the interest of religion, that strife should cease between the clergy, and those who are to profit by their ministry and example.

BUT the writer on TITHES before mentioned asks, 'Whether the gentlemen of
' the landed interest would wish their ambition or their convenience should be circumscribed by an additional portion of
' unalienable land? They have often found
3 ' a piece

‘ a piece of glebe intrude upon the unity
 ‘ and compactness of their estates: A seventh,
 ‘ a sixth, and in some parishes a fifth part
 ‘ of the land would by a commutation fall
 ‘ into mortmain, and by becoming so much
 ‘ additional glebe, would add greatly to an
 ‘ evil already complained of.’

WHATEVER might be the effect with regard to private convenience, it is beyond doubt, that to increase the quantity of unalienable land in the kingdom, would not be to contribute to the public good. One great source of national improvement is, the facility of alienation of landed property, which the legislature so wisely promotes. Every attempt to render real property *perpetually* unalienable, ought to be frustrated; and the laws of England justly abhor such perpetuity. Such restraint, in whatever degree it prevails, is inconsistent with a free government, and the genius of a commercial people,—and is greatly injurious to national industry, and the cultivation and improvement of land.

IMPROVEMENT generally follows alienation:

tion: And on a comparison of the lands which have been always alienated at the pleasure of the holder, with those which are in mortmain*, it will appear, that the degree of improvement is far greater in the former, than in the latter. The lands of the church are, in general, much less improved than the lands of laymen; and in several parts of England, where the landed interest of the church prevails, and where many indolent clergymen reside, improvements in agriculture are obstructed,—trade ceases, except for articles which are necessary

* The original meaning of the term *mortmain*, may be learnt from the ancient statutes. By alienation in mortmain, lands were said to come into *dead hands* as to the lords, who lost their escheats, and in effect their knights' services for the defence of the realm.

All lands in the hands of ecclesiastical persons, who hold for life only, and are not permitted to alienate, are said to be in mortmain.

Blackstone, in speaking of the laws which have been made to prevent the purchase of land by religious establishments, in consequence whereof the land became perpetually inherent in one dead hand, says, "In deducing the history of the statutes of mortmain, it is matter of curiosity to observe, the great address and subtle contrivance of the ecclesiastics, in eluding from time to time the laws in being, and the zeal with which successive parliaments have pursued them through all their finesses."

fary to subsistence,—and manufactures languish, or have already migrated to a more auspicious region.

HENCE it is clear, “ the evil already complained of,” the quantity of glebe land, is an evil indeed, which will, as this writer states, be greatly increased by turning into glebe a fifth, sixth, or seventh of the land in the parishes which are not yet inclosed. But this is no proof that TITHES ought not to be commuted,—but only that every commutation with the clergy for land, increases the quantity of unalienable land; which is already so great, as to be an evil, even in the opinion of this writer. It however ought to be remarked, there cannot be the least objection of this sort to a commutation for land with a lay impropriator,—as the land which is given to him is alienable at his pleasure.

BUT the present TITHE-LAWS deserve the most attentive consideration of every man of landed property;—and the reports of the many cases which the clergy have brought into the different courts of law,
F will

will furnish us with irrefragable proof of the great injustice of them.

FOR many centuries the clergy insisted that both their persons and property were exempt from all cognizance of the civil magistrate*; and they contended that their claims for TITHES, and other ecclesiastical dues ought to be tried in the ecclesiastical courts only, and not by juries.

FROM the time of that proud prelate, Thomas á Becket, to the time of Archbishop Bancroft, in the reign of James I. the ecclesiastical and civil courts were at perpetual variance. The judges in the civil courts readily granted *writs of prohibition* in cases of suits for TITHES in the ecclesiastical

* In the twelfth century, murders, adulteries, and rapes were daily committed with impunity by the ecclesiastics; and holy orders were become a full protection for all enormities. An ecclesiastic in Worcester-shire debauched a gentleman's daughter, and then murdered the father. The king demanded that he should be delivered up to receive condign punishment from the civil magistrate. But Becket, the archbishop, insisted on the privileges of the church, and maintained that no greater punishment could be inflicted on him than degradation. *Hume's Hist. of Eng. vol. I. p. 391.*

fiaftical courts, and the clergy as constantly opposed them. Bancroft, in the name of the clergy, carried up various articles of complaint to the Privy Council on this subject, againft the judges. "When people," faid he, "perceive that judgment will go againft them in the ecclefiaftical courts, they fly to Weftminfter-Hall, and readily procure a *prohibition*." He therefore prayed the Privy Council "to direct that fuch caufes "might be tried before ecclefiaftical judges "only, left poor minifters fhould be "left to country trials before unconfcion-
"able jurors."

THESE articles of complaint were answered by all the judges of England, who honeftly faid, "In former ages the clergy were well content to accept what was ufually paid, and did not contend againft any prefcription or compofition; but now they grow fo troublefome to their neighbours, as, were it not for the *prohibition*, they would foon overthrow all prefcriptions and compofitions for TITHES, which would breed fuch a general *garboil* among

people, as were to be pitied, and not to be permitted *."

AT present, it seldom happens that TITHES are sued for in the ecclesiastical courts, for if the defendant plead any custom, modus, or composition, by which the right of tithing is questioned, the law will not suffer the existence of such a right to be decided by any single man, much less by an ecclesiastical judge, without the verdict of a jury †.

A PRESCRIPTION *de non decimando*, or an exemption from all TITHES, without any compensation having been made for them, is not allowed to a *layman*, unless he can prove his lands to have been abbey lands, and that they were free of TITHES previous to the statutes of Henry VIII. for the dissolution of abbies ‡.

HENCE,

* Coke's 2 Institute, p. 610 and 611.

† Blackstone's Com. vol. III. p. 89.

‡ Blackstone's Com. vol. II. p. 31 and 32. Degge's Par. Counf. p. 305. Selden on Tithes, p. 407, 408.

HENCE, when the Rev. Mr. Brearey, the rector of *Middleton upon the Wolds* in *Yorkshire*, chose to take advantage, as many more of the clergy have done, of that famous maxim in law, *NULLUM TEMPUS OCCURRIT ECCLESIAE*, and filed his bill in the Exchequer in the year 1762, against Manby, one of his parishioners, for great and small *TITHES* of his lands, although Manby proved by witnesses, that no *TITHE*, *modus* or composition had, within the memory of man, been paid for those lands, it was determined that the *non-payment* of *TITHES*, though for time immemorial, was no exemption from the payment of them, unless it was set out and established by the defendant, that such exemption arose from the lands having been parcel of one of the greater abbies:—And it was decreed, that Manby should account to the rector for the *TITHES* of those lands for which he claimed the exemption. Manby was therefore obliged to pay to the rector, the *TITHES* of his lands for many years past; which, with the expences of the suit, greatly reduced his property, and left his family to lament the effects of the tithe-laws.

A *MODUS decimandi*, known by the name of a *modus*, can only be supported against a claim for TITHES in kind, by proof of *immemorial* usage; and the law as it now stands, determines, that the time of memory shall commence from the reign of Rich. I. —an æra full six hundred years distant from the present time*. Any ancient *modus* may be set aside, by proof of its non-existence in any part of the long period of time between the reign of Richard I. and the present day: And if the *modus* set up in opposition to TITHES in kind, is so rank and large, that it exceeds what the value of the TITHES in kind could have been in the time of Richard I. it destroys itself by internal marks of a later original†.

AND not even a decree in Chancery will establish an agreement for the annual payment of a sum of money in lieu of TITHES, if the agreement were not made with the consent

* “ It seems unaccountable, that the date of legal prescription or memory, should still continue to be reckoned from an æra so very antiquated.” *Blackstone's Com.* vol. II. p. 31.

† *Blackstone's Com.* vol. II. p. 30 and 31. *Burn's Eccles. Law*, vol. III. p. 417.

consent of the patron and ordinary, and previous to the 13 Elizabeth*, *anno* 1571.

IN consequence of an agreement with the rector of Burton Coggles, in *Lincolnshire*, for a money-payment in lieu of TITHES in kind, the open lands of the parish were inclosed in 1664; and in 1677, it was decreed in Chancery, the bishop assenting, that the lands and tenements in the parish, 'should stand discharged, and freed
' of and from the payment of TITHES in
' kind, and of all manner of other TITHES
' and dues, except the sum of 96l. 8s. 7d.
' to be paid to the rector of Burton Coggles,
' his successors and assigns.' This payment had been regularly made, to the rector for the time being, from the period of the decree, till the year 1756, when the Rev. Dr. Blair became rector; and Dr. Blair himself received the same payment for several years afterwards. But at length, the Doctor discovered a defect in the original agreement in 1664,—questioned the validity of the decree in Chancery in 1677,—

F 4

filed

* Burn's Eccles. Law, vol. III. p. 403, 404.

filed his bill for TITHES in kind, and obtained them*.

A REAL COMPOSITION, is founded on an agreement made between the owner of lands and the parson, with the approbation of the patron and ordinary, and is a discharge from the payment of TITHES, in consequence of land, or other real recompence having been given to the parson, in satisfaction thereof†. But since the 13th Eliz. no *real composition* is good for any longer term than three lives, or twenty one years‡; and as agreements for compositions, are now seldom made but with the parson only, they are of no validity after his death, and may previously be rendered void by other events.

IN 1769, the Rev. John Bree, rector of the parish of *Ryfolm*, in the county of *Lincoln*,

* *Vide* also the case of *Lloyd and Mortimer*, in the *Excheq. Mich. Term*, 16 Geo. III. in which an agreement for a modus or composition by indenture, dated *anno* 1676, and executed by the patron, vicar, and bishop, was set aside by the Rev. Mr. Lloyd, in the year 1773, nearly one hundred years after it was made.

† Coke's 2 *Instit.* 490.

‡ *Blackstone's Com.* vol. II. p. 26.

coln, exhibited his bill in the Court of Exchequer for TITHES in kind, against Charles Chaplin, Esq. the owner and occupier of two thousand acres of land, which Mr. Bree supposed to be in the parish of Ryfolm. Mr. Chaplin insisted, that a great part of his estate was not in the parish of Ryfolm; and as to the other part, he relied on being able to prove an ancient composition, by an agreement of the parson, patron, and ordinary, previous to the 13th Elizabeth, by virtue of which an annual payment of 15l. 10s. 1½d. was fixed in lieu of, and in full satisfaction for all TITHES. Mr. Chaplin's father purchased the estate, in the year 1721, of Lord Tyrconnel, and by the agreement between them, an allowance was made to the purchaser for the various out-payments, and for 15l. 10s. 1½d. to be paid to the rector of Ryfolm, in lieu of TITHES. From the year 1721 to 1767, this annual payment was regularly made. But Mr. Bree, soon after his institution to the rectory, claimed TITHES in kind.

It is, however, very extraordinary, that although Mr. Bree claimed TITHES in kind, and is called the rector, "there has not
" been

“ been in Ryfolm,” says the report of this case, “ any church or place of public worship, nor any parsonage house, any resident minister, nor any divine service within time of memory,—if ever. The rectory (if it be properly so called) is an absolute *sinecure*; and it is not contended, that TITHES in kind were ever received or demanded by any of Mr. Bree’s predecessors.”

As Mr. Chaplin had expended twelve thousand pounds in improving his estate, in confidence that it was not subject to TITHES in kind, and that all the improvements which he made, would be for his own advantage, he was determined to resist Mr. Bree’s claim in every possible way. A special jury of gentlemen at the Lincoln assizes gave a verdict in Mr. Chaplin’s favour. But Mr. Bree applied to the Court of Exchequer for a new trial, which was ordered. Mr. Chaplin immediately appealed to the House of Lords against the order; but the direction of the Court of Exchequer, as to the second issue, relative to the *real composition* was affirmed. In the debate on the subject, Lord Mansfield said,
Mr,

Mr. Chaplin's was AN HARD CASE, but that however desirous their lordships might be to relieve Mr. Chaplin, "*it was impossible to fly in the face of the law* *." He declared, that if a bill were brought into the House, to provide for the clergy in some other way than by TITHES, and in a manner more suitable to their office, it should have his hearty concurrence and firm support †.

As neither Mr. Bree, nor any of his predecessors, in the memory of any person living, had ever performed any religious duty within the parish of Rysolm, no work was done, and therefore no wages were due. Lord Chancellor King observed, in the

* "The office of a Judge," says Lord Bacon, "is *jus dicere*, and not *jus dare* : to interpret law, and not to make law or give law." Therefore, however sensible a judge may be of the impolicy of existing laws, he is bound, in his judicial capacity, to act according to them; for he cannot act contrary to the law.

† The House of Lords reversed the order of the Court of Exchequer on the first issue, so that it was settled that a great part of Mr. Chaplin's estate was not in the parish of Rysolm. And although the order for a new trial on the second issue was affirmed by the Lords, Mr. Bree has not yet thought proper to proceed to a new trial.

the case of *Chapman and Monson*, '*Tithes are the reward for the care the parson takes of the souls of his parishioners, in which case the labourer is worthy of his hire**.'

If then the parson take no care of the souls of his parishioners, why should any of his parishioners pay him TITHES? But a clergyman does not now hesitate to demand TITHES of people, whom he seldom or never sees, and to whose religion and morals he is an utter stranger. God's work is made a *sine-cure*†, and those who are paid by the public for defending the interests of religion, sacrifice them to their own.

It can no more be disputed that "the labourer is worthy of his hire," than that he who does no work deserves no wages. But, on these principles it is not easy to convince the farmer, who is smarting under the exactions of the lazy pluralist, that no particle of the TITHES can be withholden with a safe conscience, although the parson makes

* 2 P. Will. 574.

† Cowper's Poems.

makes no conscience of discharging the duties of his ministry. The laity, in general, have some idea of the truth of Lord King's assertion, that "TITHES are a reward to the parson for the care he takes of the souls of his parishioners;" and they cannot be persuaded that he has any right to TITHES on any other account. If therefore the people are defrauded of the services of the ministry, it is very probable they will in return defraud the clergyman of his TITHES. One fraud cannot be urged in vindication of another; but as the clergyman gives the first example of injustice, he has no reason to be surprised, if his parishioners really think his conduct a justification of their own.

"ALL endowments of churches," says Dean Prideaux, "whether in TITHES or glebes, were originally devoted *Deo et ecclesiæ*, to God and his church, and the ministers are only usufructuaries to receive the annual income as their hire from God, for the service they do him in the church. And therefore, to receive
" God's

“ God’s hire without doing that work for
 “ which it is intended, as all pluralists do
 “ in the parishes where they are non-resi-
 “ dent, is the taking of that which belongs
 “ to God, without acquiring any right to
 “ it, which is notorious and wicked sa-
 “ crilege ; and it is a great sin, as well as a
 “ great shame, to any government under
 “ which it is permitted*.”

IN February 1772, Mr. H. Seymour, moved in the House of Commons, for leave to bring in a bill to secure the possessions of the subject, against the dormant claims of the church. He said, acts of limitation had passed at different periods, for the relief and security of every person possessed of property, and in order that that property might be ascertained ; and to add to the security of the subject, the crown had given up its *nullum tempus* power. The church, he observed, now stood single against the lay subjects of the crown, and superior, in point of legal power, to the crown itself. That length of possession, which fortified and strengthened

* Reasons in Defence of a Bill for restraining Pluralities of Benefices. By Humphrey Prideaux, D. D. Dean of Norwich.

ened legal right and just title, in every other case, did in this alone, render them more weak and uncertain. He added, that various instances might be mentioned to shew how oppressively this church power had been used ; but he would name one only, which was well known to the gentlemen of the law ; he meant that of a member of that house (who afterwards acknowledged the fact) whose family was at that instant, one hundred and twenty thousand pounds worse by the claim of a bishop upon his lands, after quiet possession for above one hundred years. He said, he was ready to give the poor parochial clergy any ease or advantage that could be pointed out, and that he had desired the two metropolitans to consider in what manner this might be most effectually done.

LORD NORTH, and the Lord Advocate of Scotland, opposed the reading of the bill. But the Lord Advocate acknowledged, that a law of a similar nature had passed in Scotland, and that the whole kingdom, clergy as well as laity, found the very best effects from it.

MR.

MR. SEYMOUR replied, that this was the first time since he was in parliament, that the minister had objected to the reading of a bill, which was calculated to promote a public good, by redressing a public grievance. He said the minister had, on this occasion, mentioned the poor clergy, only as a mask to screen the rich ; that poverty was made use of as an instrument to defend superfluity and luxury. If the poor clergy were the objects of his lordship's care and regard, why had he lately given his brother a bishopric of two thousand pounds *per annum*, besides two livings *in commendam*. His lordship might have bestowed the two livings, at least, on the poor clergy. Mr. Seymour asked his Lordship, why he did not mention the poor clergy, when he acquainted him with the contents of the bill. Was he to understand, when he appeared smiling and courteous, and made no objection, that at that moment he meant opposition? He acknowledged, he did not understand his Lordship's ministerial countenance; but, for the future, he should conclude, that when he apparently approved, he meant to oppose.

LORD NORTH observed, it was the etiquette of the minister, if he could not grant the favour asked of him, at least to send home the person refused in good humour. This was very well understood by courtiers ; but for the information of such ignorant, honest country gentlemen as Mr. Seymour, he thought it right to explain, that when he only nodded or squeezed the hand, but did not absolutely promise, he always meant NO !

ON the division, notwithstanding Lord North's influence, the majority against the reading of the bill was only 24 votes. Against the reading of it, 141. For it, 117*.

ABOUT twenty years ago, agistment TITHE was claimed by the clergy, in several parishes in which it had never before been heard of. *Agistment* TITHE, says the Rev. Mr. Bateman, "is, comparatively speaking, "a *modern* TITHE, which has not been "claimed, or at least the right to it
G "litigated

* Chandler's Debates. Anno 1772.

“ litigated in one half, or perhaps in three-fourths of the parishes in the kingdom *.” And when Mr. Bateman prosecuted his parishioners, for *agistment* TITHE, in the year 1774, the claim was considered as new and extraordinary in England; and Mr. Skinner, one of the Welch Judges (afterwards Lord Chief Baron) asserted upon the trial, that *agistment* TITHE had never been paid in any part of Wales.

BUT Mr. Bateman, conceiving that his parishioners had no right to fatten their oxen or sheep without paying him one tenth part of the value of the *grafs* which they ate, filed his bill in the Exchequer for the TITHE of such *grafs*, called *agistment* TITHE†: And for the direction and

* Bateman on *Agistment Tithe*. Printed in 1778.

† It is stated by Mr. Bateman, that tithe is due *three times* in one year, from land not arable;—first of the hay; then of the eddish or after-grass; and lastly of the grass which grows after the eddish is eaten off. But Mr. Bateman is mistaken, and those who rely on his book will be deceived. “ *Tithes are not due for agistment in after-pasture, after tithes paid of the hay.*” 1 *Rol.* 640. l. 52. 641. l. 10. *Comyns's Digest*. vol. 3. p. 94, 97. 8vo. edit. *Art. Dismes*. And consonant to this are the opinions of the first lawyers of the present day in the

and encouragement of the clergy in like cases, he has published the particulars of his proceedings, and tells them, that in his parish of *Whaplode* in *Lincolnshire*, the arrears of every species of *agistment* TITHE were decreed to him from the *very day* of his induction to the living, “ although no
“ one article of such TITHE had ever be-
“ fore been paid or demanded in the pa-
“ rish.”

HENCE it follows as a certain consequence, that the inhabitants of a parish in which *agistment* TITHES were never hitherto paid or heard of, may be compelled to pay the value of such TITHES, for such a number of years past, as may be utterly ruinous to many of them. Mr. Bateman himself informs us, that the vicar of a parish adjacent to his, obtained the arrears of *agistment* TITHE for upwards of *nineteen* years,—and in several decisions since, he says the defendants have been made to ac-

G 2

count

the kingdom. If therefore Mr. Bateman have taken the *agistment* tithe of *eddish* or *after-grass*, “ after tithes paid of the hay,” he has taken that to which he had no legal right, and he ought to refund to his parishioners what he has taken.

count to the clergyman for *agistment* TITHE, from the time of his induction.

“IT is not at all surprising,” as Mr. Bateman observes, with great truth, “that the setting up in any parish, the demand of an entirely new TITHE, never perhaps paid or heard of there before, should meet with the most ungracious reception.” But what sort of reception such a demand might meet with at *Whaplode* was certainly of some importance to Mr. Bateman as minister of the parish. What the next new TITHE which will be demanded, may be, is not easy to say. The clergy have great ingenuity in matters of this sort, and much leisure for the exercise of it. The whole creation is before them; and the position, that all things which yield an annual increase, ought to pay TITHES *communi jure*, will probably support them in making claims which they have never yet thought of.

IN the year 1781, much was said in the House of Lords, on the subject of TITHES. In the debate on the thirtieth of March in that year, on the *Ilmington* inclosure bill,
Dr.

Dr. Warren, then bishop of St. David's, observed, that when inclosures were first made, incumbents were always permitted to take the TITHES of the lands inclosed, in the same manner as when open, and that this had been the uninterrupted custom till within the last thirty years.

HE contended, that the mode of commuting TITHES for land, in bills of inclosure, tended to bring land into mortmain,—to render the clergy secular,—to immerse them in worldly affairs,—and to prevent the faithful discharge of the duties of their sacred function. He asserted, that the peace and quiet of a parish, had hardly in any one instance, been interrupted by the incumbent; and that TITHES, in the hands of a discreet and judicious clergyman, instead of breeding quarrels, might prove *the firmest bond of union and friendship*, between the pastor and his flock. But if TITHES were taken away, this CEMENT *would be broken*, the parishioners would become independent of their minister, and he independent of them,—and *opportunities of communication*, which might raise mutual esteem in the mi-

nister and people, would be at an end.—
As, therefore, it was intended by this bill to give land to the rector, in lieu of TITHES in kind, he should oppose it; and he moved that the bill should be recommitted.

DR. Hinchcliffe, bishop of Peterborough, in reply, observed, that a clergyman was not compelled to occupy or cultivate a landed estate, which he held for life, any more than any other person: On the contrary, if he took TITHES in kind, he was obliged to collect them at no small trouble, and often with great vexation; and as he could only consume a very inconsiderable part of them himself, he necessarily sent the rest to market;—and thus he acted in the capacity of a farmer. But by having a compensation in land, many inconveniences were avoided, and one in particular, which materially affected the ecclesiastical character, and tended to defeat the sole object of the institution of ecclesiastical persons; For, continued he, it is often of very little consequence, that a clergyman is a good man,—that he possesses every Christian and moral virtue, and labours incessantly in the care
and

and instruction of his flock : If he preached like an angel, he would often, indeed almost always, preach in vain, while those to whom he addressed himself had conceived prejudices and resentments against him, on account of his being a partaker of their property and labours. He presumed he need not press this point on his learned brethren. They knew it : It was notorious. The interest of the incumbent, was deemed incompatible with the interest of his parishioners. The merit of the ecclesiastic was viewed through a wrong medium ; and the pastor was sunk in the tithe-collector.

THE Earl of Westmorland said, he perfectly coincided in sentiment with the bishop of Peterborough. He considered TITHES in kind, or compositions in money, as a source of perpetual strife and ill-will, and as the cause of inveterate and incurable disagreements between the pastor and his parishioners. It was hardly to be expected that the flock would be much edified by the ministrations of a man, whom they considered as their daily oppressor ; nor, on the contrary, was it probable, the parson would

take much pains to convey spiritual benefits to those who were constantly devising means to harass and perplex him. It was beyond human belief, that men would listen to a preacher with reverence and respect, when he was the perpetual object of their personal enmity, and the supposed author of the heaviest grievances they had to complain of.

HIS Lordship farther observed, that TITHES in kind, or commuting of them, for nearly their full value in money, was a great discouragement to agriculture, and every species of improvement. It must be very obvious, that land-owners and farmers were frequently deterred from improving their farms, by the certainty, that the improvement would bring an additional tax upon their property: For if a man laid out a sum of money to improve his estate, he would, besides having the interest of the money laid out, to charge on the improvement, have an additional tax laid on him by the rector or vicar; which must operate as a discouragement to the cultivation both of barren lands, and of lands in
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some degree improved. But when this odious and unpopular tax should be invariably fixed, instead of being at the will of every new incumbent, and, as it frequently happened, annually altered, according to the caprice, litigious disposition, or avarice of the same incumbent, the farmer would proceed with zeal and alacrity, under the idea of perfect security, knowing that he was working and advancing his money for himself, and not for another.

AFTER a debate of several hours, the question was put on the motion of the bishop of St. David's, which was negatived, by thirty-one against twenty-three*.

ON the sixth of April following, Earl Bathurst, Lord President of the Council, gave notice in the House of Lords of various propositions which he intended to submit to the consideration of a Committee of the whole House, relative to inclosures and the commutation of TITHES. But although those propositions appear to have originated

* Parliamentary Register. Anno 1781.

originated in the most patriotic motives, and were certainly calculated to produce the most beneficial effects, they were strongly opposed by several of the Lords, and his Lordship's motion for a committee of the house was withdrawn.

IN this debate, Earl Bathurst quoted from Speed's Chronicle, a curious conversation between William the Conqueror and Frederic, the rich abbot of St. Alban's. William asked the abbot,—how it happened that he had conquered the whole kingdom by a single battle, when the Danes had fought so many battles, without being able to conquer it. The abbot replied, that there were not martial men sufficient to constitute an army, capable to repel an invader, when William landed: That great numbers of the people had entered into religious houses; and as the church had engrossed a great proportion of the wealth of the kingdom, it had become the interest of the subject to seek those preferments to which the professedly religious were alone eligible.—William profited by this answer; and, in order to collect a sufficient force to avert the danger

danger of future invasions, as well as to maintain peace and good government at home, he proceeded to strip the ecclesiastics, and particularly the abbot whom he had questioned, of a considerable part of their possessions, and to abolish such of the religious institutions as were least useful.

THE bishop of Llandaff, in opposition to Lord Bathurst's propositions, asserted, that independent of the great waste of land, and expence of inclosing, *inclosures were unfavourable to agriculture, and to the cultivation and produce of corn.* That the crops in inclosures were subject to blights and mildews, from the shade of the neighbouring trees and hedges, which obstructed the air, and excluded the sun. *Trees and hedges were, besides, apt to generate vermin, and many other evils of a similar nature;* whereas, in open fields, the corn was free from those evils, and it was always found to be *more in quantity, and of a better quality, than in inclosures* *! As this reverend prelate is now a member of the Board of Agriculture, it is hoped that he has obtained better information on the subject.

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* Parliamentary Register. Anno 1781.

AFTER all, it may be said, that TITHES have been appropriated to the subsistence of the clergy for a thousand years past ; and that *no innovation* in the institution, ought to be suffered, either at the present, or at any future time.

INNOVATION is a word which has often been used as a term of opprobrium, to discredit the most useful and necessary reforms. But it is still undoubtedly true, that to innovations or reforms, we are indebted for the most valuable blessings which we enjoy. Reformation is the necessary consequence of an increase of knowledge, and the progress of human affairs ; and those who resist gradual reforms, do all in their power to repress the exertions of the human mind, and to keep the world in ignorance and barbarism. Modern universal history, and recent and tremendous facts might convince us, that the greatest evils have befallen those nations whose rulers have pertinaciously resisted such improvements as common sense and common justice required. And even under the English government

government, which is so well calculated to preserve the rights of men, it is possible that such abuses may exist, as in a succession of years may become absolutely insupportable, and propel such a general national convulsion as every good citizen will deprecate and labour to avert*.

“ May no such storm
“ Fall on our times, where ruin must reform.”

IN England, both our ecclesiastical and civil polity have been much improved, at different periods, by the abolition of old and oppressive customs, supported by the laws of dark and superstitious times : And in some instances, at least, we may be allowed to question the wisdom of our ancestors, and to doubt the policy of measures, imposed in times of uncontrolled papal domination, when man was degraded below

* Lord Bacon observes, “ Time is the greatest innovator.
“ And if time, of course, alter things to the worse, and wisdom and counsel shall not alter them to the better, what shall be the end ? A forward retention of custom, is as turbulent
“ a thing as an innovation ; and they that reverence too much
“ old times, are but a scorn to the new.”

below his species. In the present age, although that respect is paid to the clergy which is due to them, no one considers it as a necessary consequence of his regard, that his property should be so reduced, and his plans of improvement so impeded, by the price which he is to pay for religious instruction, as that he should have just reason to complain, the claims of ecclesiastics are a greater burthen than all other taxes in the aggregate.

It is certainly an unwise system, which makes religion thus expensive to the public, and which lays the foundation of innumerable quarrels between priest and people. Contentions between the pastor and his flock, cannot but be extremely injurious to religion, and destructive of the very purposes for which a Christian ministry is appointed. The clergyman who quarrels with his parishioners on account of TITHES, is seldom troubled with a large congregation at his church; and when people desert their parish church, they do not often frequent any other. They are led first to despise the clergyman,

clergyman, and then the religion of which he professes himself a minister.

BUT it is a matter of the very greatest consequence to the civil government of this country, that the Christian religion should be revered and understood ; and if any part of our ecclesiastical establishment, or the abuse of it by the clergy be such as may tend to bring Christianity into contempt, the state ought to interfere to remove the evil. Had this been attended to in France, before infidelity and licentiousness had spread through all ranks of society, that nation might have preserved some degree of moral and religious principle, and have enjoyed at this moment prosperity and peace.

IN whatever way an equivalent may be offered to the clergy for TITHES, there is very little reason to suppose they will willingly accept it. Jealous of their interests, and anxious to perpetuate their power, many of them absurdly condemn and oppose every proposition of reform in any ecclesiastical matter, however reasonable.

The ignorant bigot, and the idle pluralist, continually hold out the hazard of change, and the sanctity of ancient establishments, as a full vindication of the most irrational practices, and as a sufficient answer to the most enlightened argumentation*. It is however but justice to observe, that there are many learned and liberal minded men in the establishment, who are influenced by more excellent motives, and who would gladly commute their claims for TITHES, or conciliate the regard of their parishioners by any other means, in order to give the greatest effect to their ministerial labours.

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* A French writer relates, that a synod was held some centuries ago, with intent to reform the rules of the monks of St. Anthony. The monks of this order were called the *Hogs of St. Anthony*, from their established custom of *eating eight times a day*, for the purpose of evincing to the world, the weakness of human nature. Many long and learned speeches were made by different members of the synod, to prove, that the conduct of the brethren of St. Anthony was absurd and ridiculous, and that the institutions of our ancestors would admit of some improvement. But, in answer to all the reasons which the wisdom of the synod could adduce, the well-fed prior of St. Anthony only grunted forth, "*Let us keep ourselves, in our day, from novelties!*"—These were monks worthy of their patron, the tutelary saint of all *swine*.

IN the reign of Queen Elizabeth, the House of Commons was very desirous to prevent pluralities and non-residences, and a bill was passed for the purpose, and sent up to the Lords. In defence of the bill, it was urged, that pluralities and non-residences, were *mala in se*, evil in their own nature, and could not answer any valuable purpose; that they made the clergy indolent, and were the means by which the country was kept in ignorance.

THE pluralists were alarmed. But the archbishop undertook their defence; and he had various reasons to urge against the bill. He drew up an address to the Queen, and prevailed on the convocation of the clergy to present it as their own. In this address, the clergy flattered the Queen with the title of GODDESS—*O dea certè!*—and besought her majesty to protect the church. They called themselves her majesty's *poor distressed supplicants, now in danger from the bill against pluralities and non-residences**! They told the queen, the bill would im-

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* Strype's Life of Abp. Whitgift.

peach her prerogative, overthrow the study of divinity, beggar the clergy, spoil their livings, and bring in confusion and barbarism. They took care also to put her in mind, how dangerous *innovations* are; and they intreated she would not suffer the bill to pass. The queen, in consequence of this application, immediately put a stop to the bill, and actually ordered into custody those members of the House of Commons who had dared to meddle with the affairs of the church, without her special licence*.

IN our own times, the propositions which have been made for a reasonable and just distribution of the revenues of the church, and for the prevention of pluralities, have been spoken of much in the same way, and represented as novelties of a dangerous tendency; and the authors of them have been treated as men of levelling principles, who are hostile to the dearest rights of the church.

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* Neal's Hist. of the Puritans, vol. I. p. 334.

IN the year 1649, various petitions, from different parts of England, were presented to the House of Commons against TITHES*, and parliament voted they should be abolished, as soon as another mode of maintaining the clergy could be agreed upon. But through the turbulence of the times, and some difficulty in settling with the lay impropiators, the business was dropped.

SINCE that period, parliament has, at different times, had just apprehensions of the pernicious operation of TITHES. And in order that the land-holders might not be prevented, by the dread of TITHES, from

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cultivating

* Some time preceding this period, a petition was presented to Parliament from the county of Kent against tithes, stating, *That tithes are a mutual scourge in the hands of the ministers and people, each to the other, if either or both (as too often happens) prove covetous or cross; and that concerning tithes, arise a multitude of scandalous and vexatious suits and brabbles, betwixt ministers and people. That most unworthy persons get into the greatest livings, and securely fleece the flock, without fear or care, whilst others, painful and conscionable, both serve and starve. That there are such sordid compliances and sinful bargains with those who have the fattest benefices at their dispose, such chopping of churches, in order to get into the easiest and warmest, and such like practices not to be named, as are both obstructive and destructive of all reformation. Vide Spelman's Eng. Works, p. 163.*

cultivating hemp, flax, and madder, which are articles of great consequence to manufactures, acts have been passed in different reigns to limit the TITHES of these products to five shillings per acre.

THOSE acts give the reasons of the legislature for this limitation; and the same reasons might, with equal propriety, be given in justification of fixing a money-payment, in lieu of the TITHES in kind of many other articles*. But whether a certain sum of
money,

* In the 11 and 12 Wm. III. c. 16, it is said, "Whereas the sowing of hemp and flax is and would be exceedingly beneficial to England, and does justly deserve great encouragement, by reason of the multitude of people that are and would be employed in the manufacturing of those two materials, and whereas the manner of tithing hemp and flax is exceedingly difficult, creating chargeable and vexatious suits and animosities between parsons, vicars, impropriators and their parishioners; for remedying whereof it is enacted," that the tithe be limited to five shillings per acre.

The 31 Geo. II. c. 12, states, that, "Whereas madder is an ingredient essentially necessary in dying and in calico printing, and of great consequence to the trade and manufactures of this kingdom; therefore, for the encouragement of the growth thereof, it is enacted," that the tithe be limited to five shillings per acre.

money*, or a certain quantity of corn, or a certain proportion of the rent of the land, be given to the clergy, instead of TITHES, the credit of the clerical character, and the good of the nation, require, that an exchange should be made in some way.

IN America, there are no TITHES, and even in Russia "the plague of TITHES is now unknown." In Sweden, Denmark, and a great part of Germany, the clergy are paid out of the public treasury. In Holland, Italy, and Sicily, there are no TITHES; and it is hoped the period is fast approaching, when they will be abolished in England. And whenever the grievance shall be brought before parliament, and a remedy called for, by peaceable and constitutional means, the voice of the people must prevail, and a commutation be established, on the principles of impartial justice and sound policy.

BEFORE the late improvements in agriculture, the impolicy of taxing the national industry,

* By the 22 and 23 Char. II. (after the fire of London) tithes were taken from about fifty churches in London, and money-payments fixed in lieu of them; which commutation continues to the present day.

industry, by the exaction of TITHES, did not so fully appear, nor was the oppression so generally felt, as at the present time. This is, undoubtedly, the reason why no more has been said on the subject from the press, and why no attempt has yet been made to abrogate the whole system of TITHES. But the odious imposition, is now become so highly unjust, from changes of circumstances, consequent upon universal improvement, that it ought not any longer to subsist.

FOR many years past, the burthen of TITHES has been increasing every year. And it is an indisputable fact, that such a general conviction of the baneful effects of TITHES now prevails in the nation, that in several counties, the land-owners and farmers have had it in contemplation to call for county meetings, in order to collect the public opinion on the subject, and to express that opinion, by petitions to parliament*. And considering the magnitude
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* A very numerous and respectable meeting of the Gentlemen and Yeomen of the county of Devon was held at the city
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of the evil, and its various destructive influences on the moral character, on the national

of Exeter, on the 15th day of June, 1792, to consider of an application to Parliament for an alteration in the present mode of paying tithes.

In the resolutions of that meeting it was stated,

That the present mode of paying tithes in kind, is the greatest discouragement to agriculture, and to the improvement of lands in general.

That it is the cause of frequent contentions between the the tithe-owner and the farmer, and is highly prejudicial to the religion of the land, by laying the clergy under an odium which, in general, they do not deserve.

That the greatest hardship falls on the farmer who is the most industrious, and who expends the most money in cultivating his land ; and that an equivalent for tithes ought to be paid according to the real annual value of every estate.

That it will be prudent to take the opinion of other counties, on a matter of such importance, previous to an application to parliament, and that a committee of twenty-four persons be appointed for that purpose.

Another very large meeting of the Gentlemen and Yeomen of the same county was held at Exeter on the 25th day of May last (1795). At that meeting the Gentlemen and Yeomen of other counties were called upon to declare publicly their sentiments relative to tithes : The meeting at the same time expressed the strongest reliance that the BOARD of AGRICULTURE would recommend the subject to the consideration of Parliament, and a copy of the various resolutions of the meeting was transmitted to the Secretary of that Board.

On the 24th day of November next, another meeting will be held at Exeter on the same business.

national religion, and on the national prosperity, every friend of his country, and of mankind, cannot but ardently wish that the wisdom of the legislature may speedily adopt a mode of supporting the clergy which may be less exceptionable in its nature, and less injurious in its consequences.

THE END.



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